

Feb 28, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALLAH©,

Plaintiff,

v.

DONALD HOLBROOK, *et al.*,

Defendants.

4:19-CV-05282-SAB

ORDER DISMISSING ACTION

Plaintiff, a prisoner at the Washington State Penitentiary, filed a civil rights complaint pursuant to 42 U.S.C. §§ 1983, 1985 and 1986, on December 13, 2019. ECF No. 1. He provided an outdated statement of his inmate account and did not file an application to proceed *in forma pauperis*. The Clerk of Court advised Plaintiff of these deficiencies in a letter dated December 16, 2019 and directed him to complete and submit the accompanying *in forma pauperis* application or to pay the \$400.00 fee (\$350.00 filing fee, plus \$50.00 administrative fee) to commence this action. ECF No. 6.

Along with his complaint, Plaintiff filed a Motion for Temporary Restraining Order, ECF No. 3, by which he seeks his immediate release from incarceration. On January 7, 2020, he filed a “Motion to Vacate Void Judgment,” ECF No. 9. On January 17, 2020, he filed a “Supplemental Complaint/Quiet Title Action,” ECF No. 10, and an accompanying Affidavit, ECF No. 11.

In the interim, in response to the Clerk of Court’s deficiency letter, Plaintiff

1 submitted a document titled, “Trust Account is for Date Admitted to DOC,”
2 declaring himself a “Secured Party,” and asserting that he has “submitted a check
3 stamped by the Minnesota Secretary of State Office, According to HJR 192 of June
4 5, 1933” and he is “using this same check to pay unlimited filing fees.” ECF No. 7
5 at 1. He also declares that he is “not filing an IFP.” *Id.*

6 As acknowledged by the Ninth Circuit Court of Appeals, Allah© is
7 precluded from proceeding *in forma pauperis* under 28 U.S.C. § 1915(g) absent a
8 showing of imminent danger of serious physical injury. *See Allah v. Sherfey*, No.
9 2:17-cv- 01746-RSM (W.D. Wash. Mar. 7, 2018) (Denial of *in forma pauperis*
10 application based on 1915(g) was appealed [18-35215] and the Ninth Circuit
11 denied the motion to proceed *in forma pauperis* “because appellant has had three
12 or more prior actions or appeals dismissed as frivolous, malicious, or for failure to
13 state a claim upon which relief may be granted and appellant has not alleged
14 imminent danger of serious physical injury,” [18-35215, ECF No. 11], Mandate
15 issued December 21, 2018). Therefore, it is reasonable for Plaintiff not to attempt
16 to proceed *in forma pauperis*.

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1 Nevertheless, the documents Plaintiff submits in an apparent attempt to pay
2 the \$400.00 filing fee, ECF Nos. 7, 8, are not lawful tender and cannot be accepted
3 by this Court in satisfaction of the payment obligation. Therefore, **IT IS**
4 **ORDERED** this action is **DISMISSED** for non-payment of the filing fee as
5 required by 28 U.S.C. § 1914. **IT IS FURTHER ORDERED** all pending Motions
6 are **DENIED as moot**.

7 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
8 enter judgment, provide a copy to Plaintiff, and **close** the file. The Court certifies
9 any appeal of this dismissal would not be taken in good faith.

10 **DATED** this 28th day of February 2020.



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A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is written in a cursive style and is positioned above a horizontal line.

16 Stanley A. Bastian
17 United States District Judge
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